

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
58th LEGISLATURE - REGULAR SESSION**

FREE CONFERENCE COMMITTEE ON HOUSE BILL 298

Call to Order: By **CHAIRMAN KELLY GEBHARDT**, on April 14, 2003 at 10:15 A.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Kelly Gebhardt, Chairman (R)
Rep. Cindy Younkin, Chairman (R)
Sen. Dan McGee (R)
Sen. Mike Wheat (D)
Rep. Mark Noennig (R)
Rep. Hal Jacobson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Leanne Kurtz
Lisa Gallagher

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamp refers to material immediately following.

Committee Business Summary:

Hearing & Date Posted: none
Executive Action: HB 298

EXECUTIVE ACTION ON HB 298

{Tape: 1; Side: A; Approx. Time Counter: 0 - 0.5}

REP. YOUNKIN said that currently land can be divided without a survey.

SEN. GEBHARDT said that if the land is less than 20 acres then they have to have a plat, where the county takes a look at it, and a survey will need to be done.

REP. YOUNKIN said that some type of review needs to be done for the protection of the public and it should not be at the cost of the public.

{Tape: 1; Side: A; Approx. Time Counter: 3.8 - 4.4}

SEN. WHEAT said that they discussed this before the meeting and they thought that it would be a good idea to establish a fee which would not exceed a certain amount.

{Tape: 1; Side: A; Approx. Time Counter: 4.5 - 9.5}

SEN. MCGEE said that the law says there are two types of surveys that are exempt from the law. Sub-divisions that are exempt from review are currently being reviewed. If you are going to change the law that is fine, but if you are going to do reviews the government is acting out of the scope of the law. The counties do not want to expend money for the surveys that pertain to exempt land. If the lawyers in this room vote for this they are accomplices of the law. He also said that he hopes that it will be acknowledged that he is correct.

SEN. GEBHARDT said that the counties currently look at the review to see if the land is going to a family member. The file has to be correct, and that is the reason for an examining land surveyor, and in that case the private party should have to pay for those services.

SEN. MCGEE said that the purpose of an examining land surveyor is to look at errors and omissions.

SEN. NOENNIG said that it does not matter if you are an attorney this is a legitimate concern.

SEN. WHEAT said that the governing body has a legitimate right to look at the property if it is exempt, and if they go through the review process there should be a fee and they should have to pay it.

SEN. MCGEE said that he agreed with the logic, but he asked **SEN. WHEAT** to show him the law.

SEN. WHEAT said that the law is every land that has to be surveyed.

SEN. MCGEE asked **SEN. WHEAT** how you charge a fee for an exempt survey. He also said that if you put the fee in this bill then you have to change the law and the bill should be amended. He said that he would like to express his frustrations that when the

law says a survey is exempt there is no legal reason why one would go beyond that. When he talks to his clients he wants to be able to point to the law to charge them.

REP. YOUNKIN said that no one would know if their land was exempt unless someone looked at it. There should be a statutory cap on the fee.

Leanne Kurtz read to the Committee the amendment to the bill.

EXHIBIT (frh80hb0298a01)

Motion/Vote: **SEN. MCGEE moved that HB 298 BE AMENDED. Motion carried 6-0, by roll call vote.**

SEN. GEBHARDT said that in Musselshell County a simple survey costs \$110, and including the time that it takes a planner the total cost is about \$150 to \$160, which includes the examining land survey fee.

{Tape: 1; Side: A; Approx. Time Counter: 22.9 - 23.8}

SEN. MCGEE said that they should leave it as reasonable fees and let the counties decide because each county does it different. He also said that most of his clients have been around for a long time and they just want to give their children a piece of land. If there needs to be a dollar amount \$200 would be good.

Motion/Vote: **SEN. MCGEE moved that HB 298 DO PASS AS AMENDED. Motion carried 6-0, by roll call vote.**

ADJOURNMENT

Adjournment: 10:40 A.M.

SEN. KELLY GEBHARDT, Chairman

LISA GALLAGHER, Secretary

KG/LG

EXHIBIT (frh80hb0298aad)